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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,511	10/19/2001	David H. Cook	LET-101	4017

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EXAMINER	
TAYLOR, NICHOLAS R	

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/047,511	COOK ET AL.	
	Examiner	Art Unit	
	Nicholas R. Taylor	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-13 have been presented for examination and are rejected.

Response to Arguments

2. Applicant's arguments filed October 21st, 2005 with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 12 states, "the location of the content is identified by an XML playlist." Claim 12 depends on independent claim 1, which contains both content "desired by the user" and content "to be inserted." For the purpose of this office action, it is assumed the claim refers to the content "to be inserted."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1, 2, 7-12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frerichs et al. (US Patent 6,684,249) and Bhagavath et al. (US Patent 6,505,169).

7. As per claim 1, Frerichs teaches a method for server side insertion of content into streaming media including the steps of

providing a streaming server; (Frerichs, column 3, line 66 to column 4, line 1)

associating an insertion plug-in with the streaming server; (Frerichs, column 4, lines 44-58)

generating a command which includes indicia for locating content desired by a user and indicia for locating a source for content to be inserted; and (Frerichs, column 10, lines 17-56, specifically steps 1-6)

substituting, in response to a signal associated with the content desired by the user, packets of content to be inserted for packets of the content desired by the user (Frerichs, column 10, lines 17-56, specifically steps 6-15).

However, Frerichs fails to teach wherein the substituting step is carried out at an edge server.

Bhagavath teaches a method for insertion of content into streaming media (Bhagavath, figure 6, item 611; column 4, lines 43-60) on the server side at an edge server (Bhagavath, column3, lines 7-27). Bhagavath accomplishes this through a

scheduling engine that receives and parses a playlist file and downloads the content associated with the playlist file (Bhagavath, column 4, lines 43-60; the process of figure 6; column 5, lines 1-33; and column 6, lines 37-43 wherein the playlist file is described).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Frerichs and Bhagavath to provide the server insertion of Bhagavath in the system of Frerichs, because doing so would allow dynamic content insertion based on dynamic comparison of audience size and composition in order to tailor ad programs to the actual audience demographics of streaming broadcasts (Bhagavath, column 1, lines 5-12 and 57-62).

8. As per claim 2, Frerichs-Bhagavath teaches the system further wherein the generated command further including indicia reflective of the user (Frerichs, column 9, lines 39-54).

9. As per claim 7, Frerichs-Bhagavath teaches the system further wherein the location of the content is identified by a URL (Frerichs, column 10, lines 31-33).

10. As per claim 8, Frerichs-Bhagavath teaches the system further wherein the location of the content desired by the user is defined by a network address (Frerichs, column 11, lines 16-19).

11. As per claim 9, Frerichs-Bhagavath teaches the system further wherein the location of the content is identified by an XML playlist (Bhagavath, column 6, lines 37-43).

12. As per claim 10, Frerichs teaches a system for inserting content into streaming media comprising

a streaming server for receiving content in the form of streaming media and passing it to a client; (Frerichs, column 3, line 66 to column 4, line 1)

an insertion plug-in associated with the streaming server for redirecting the streaming media and capable of recognizing an impending break in a media stream; (Frerichs, column 4, lines 44-58, wherein the breaks are recognized by the flags described in column 6, line 67 to column 7, line 5)

a source of content to be inserted proximate to the streaming server; and (Frerichs, column 7, lines 41-45)

a decision server responsive to the impending break in the media stream for directing the insertion of content into the media stream for substantially the duration of the break (Frerichs, column 6, lines 18-56, and the process represented by figure 3).

Frerichs fails to teach wherein the insertion plugin is located at a server side rather than a user side, and

a schedule engine providing an interface between the insertion plugin and the decision server for making a request to the decision server, receiving and parsing a

playlist file from the decision server, and downloading content associated with the playlist file.

Bhagavath teaches a method for insertion of content into streaming media (Bhagavath, figure 6, item 611; column 4, lines 43-60) on the server side at an edge server (Bhagavath, column3, lines 7-27). Bhagavath accomplishes this through a scheduling engine that receives and parses a playlist file and downloads the content associated with the playlist file (Bhagavath, column 4, lines 43-60; the process of figure 6; column 5, lines 1-33; and column 6, lines 37-43 wherein the playlist file is described).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Frerichs and Bhagavath to provide the server insertion of Bhagavath in the system of Frerichs, because doing so would allow dynamic content insertion based on dynamic comparison of audience size and composition in order to tailor ad programs to the actual audience demographics of streaming broadcasts (Bhagavath, column 1, lines 5-12 and 57-62).

13. As per claim 11, Frerichs-Bhagavath teaches the system further including a counter for identifying the number of times a universe of users sees a particular item of inserted content (Frerichs, column 9, lines 49-50).

14. As per claim 12, Frerichs-Bhagavath teaches the system further wherein the playlist file contains at least one of a local pre-recorded file, an advertisement, and a

next request that are different types of items to be played (Bhagavath, column 6, lines 37-43).

15. As per claim 13, Frerichs-Bhagavath teaches the system further wherein the substituting is based on a playlist file on the streaming server determined by a decision server (Bhagavath, column 4, lines 43-60; column 5, lines 3-33, figure 6, and column 6, lines 37-43).

16. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frerichs et al. (US Patent 6,684,249) and Brassil et al. (US Patent 6,771,644), further in view of Bhagavath et al. (US Patent 6,505,169).

17. As per claim 3, Frerichs teaches a method for matching the timing of content inserted into a data stream with breaks in the data stream comprising

prefetching the content to be inserted into the data stream, storing the prefetched content on a local server; (Frerichs, column 7, lines 41-45)

identifying a starting point for a break in the data stream, establishing an offset between the starting point of the break and an initial packet of the prefetched content; (Frerichs, column 6, line 67 to column 7, line 5)

removing from the data stream packets representative of the break, inserting the prefetched packets into the data stream; and (Frerichs, column 6, lines 18-56, and the process represented by figure 3)

adjusting the time of at least one inserted packet to match the time of at least one removed packet (Frerichs, column 8, line 64 to column 9, line 11, wherein flags are matched to fill the insertion space).

However, Frerichs fails to teach the offset being subtracted from a timestamp associated with the initial packet of the prefetched content, and

wherein the establishing and inserting steps are carried out at an edge server.

Brassil teaches a method of inserting secondary audio into a real time stream (Brassil, column 1, lines 5-11), by calculating an offset using the timestamp of the sender's data (Brassil, column 6, line 56 to column 7, line 3; column 7, lines 35-55). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Frerichs and Brassil to provide the insertion method of Brassil in the system of Frerichs, because doing so would enable insertion of secondary content into a primary stream (Brassil, column 1, lines 5-11).

Additionally, Bhagavath teaches a method for insertion of content into streaming media (Bhagavath, figure 6, item 611) on the server side at an edge server (Bhagavath, column3, lines 7-27). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Frerichs-Brassil and Bhagavath to provide the server insertion of Bhagavath in the system of Frerichs-Brassil, because doing so would allow dynamic content insertion based on dynamic comparison of audience size and composition in order to tailor ad programs to the actual audience demographics of streaming broadcasts (Bhagavath, column 1, lines 5-12 and 57-62).

18. As per claim 4, Frerichs-Brassil-Bhagavath teaches the system further including adjusting the time of a plurality of inserted packets to match the time of a plurality of removed packets (Frerichs, column 8, line 64 to column 9, line 11, wherein multiple flags are matched to fill the insertion space).

19. As per claim 5, Frerichs-Brassil-Bhagavath teaches the system further wherein the data stream is a live broadcast (Frerichs, column 4, lines 19-29, specifically a live radio broadcast).

20. As per claim 6, Frerichs-Brassil-Bhagavath teaches the system further wherein the data stream is an on demand broadcast (Frerichs, column 10, lines 19-30, wherein a client selects and receives an audio stream).

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER